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August 11, 2003

**SUMMARY OF
EX PARTE PRESENTATION**

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWA325
Washington, DC 20554

Re: Ex Parte Presentation CC Docket No. 95-116, 02-33

Dear Ms. Dortch:

On August 8, 2003, the undersigned and Lawrence E. Sarjeant, United States Telecom Association (USTA), met with Jessica Rosenworcel, Legal Advisor to Commissioner Michael J. Copps. The purpose of the meeting was to discuss local number portability (LNP) in the context of the Cellular Telecommunications and Internet Association's (CTIA) Petitions' for Declaratory Ruling (Petitions')¹ and the *Wireline Broadband* proceeding.²

Consistent with its prior filings in these proceedings, USTA articulated its concerns in relation to CTIA's Petitions' and the *Wireline Broadband* proceeding. In regards to CTIA's Petitions', USTA expressed its position that the impacts of inter-modal number portability upon wireline carriers be fully considered by the FCC as it implements wireless LNP. Permitting wireline-to-wireless number porting outside of the wireline rate center into larger wireless local calling areas, which in some instances would cross state boundaries, impairs the ability of incumbent local exchange carriers (ILECs) to rate toll calls. Requiring number porting outside of the ILEC rate centers will undermine and dramatically impact intrastate rate structures administered by state public service commissions. Changes in the scope of ILEC porting obligations cannot be lawfully done outside of a rulemaking proceeding that takes into account rate structures imposed upon ILECs by state regulators. Unless and until ILEC number porting obligations are changed in an appropriate rulemaking proceeding, wireless service providers should have a physical presence within the ILEC rate center in order for numbers to be ported, as is the case today for CLECs requesting LNP. Further, USTA

¹ See Telephone Number Portability, CC Docket No. 95-116, *Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association* (filed Jan. 23, 2003); *Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association*, filed May 13, 2003.

² *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal service Obligations of Broadband Providers; Computer III further remand proceedings; Bell Operating Company Provision of Enhanced services; 1998 Biennial Regulatory Review-Review of Computer II and ONA Safeguards and Requirements*, CC Docket Nos. 02-33; 95-20; 98-10, FCC 02-42, Notice of Proposed Rulemaking (rel. Feb. 15, 2002).

explained that the porting interval for wireline to wireless carriers should remain as currently set forth in FCC Rule 52.26(a).³ The expense for ILECs to make the network changes required to significantly decrease the currently prescribed porting interval would be substantial and not justified by the incremental benefit to customers. Finally, USTA conveyed that ILEC's should retain the right to require an interconnection agreement in order to accommodate number portability with a wireless provider. By allowing an incumbent LEC to select the use of an interconnection agreement, the FCC will continue to ensure that proper routing, call completion, and service quality standards are sustained.

In relation to broadband, ILECs should be afforded the same opportunity as cable companies to structure their broadband offerings to meet the needs of their customers. USTA emphasized that the FCC's analysis in the *Cable Declaratory Ruling*⁴ can be applied to ILECs, allowing ILECs the option of offering broadband transport via common carrier, private carriage, or as a telecommunications component of a single integrated Internet access service. Moreover, to ensure the future sufficiency of universal service support, the FCC should require that all broadband and broadband services (common carrier broadband transport services, private carriage broadband transport services and broadband-based information services) contribute to USF support mechanisms pursuant to section 254(d) of the Communications Act of 1934. Finally, regarding the issue of Internet service provider (ISP) access, USTA emphasized that open access for ISPs to broadband transport should be encouraged but not mandated because there is no evidence that ISPs will be denied access to broadband platforms providing high speed access to the Internet. USTA noted that open access is not mandated for cable modem by FCC rules, and that the same should be true for all mass market broadband service providers.

In accordance with Section 1.1206(b)(2) of the Federal Communications Commission's (FCC) rules, this letter is being filed electronically with your office. Please feel free to contact me at (202) 326-7271 should you have any questions.

Sincerely,



Michael T. McMenamin
Associate Counsel

cc: Jessica Rosenworcel

³ 47 CFR § 52.26(a).

⁴ *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling*, GN Docket No. 00-185, FCC 02-77 (rel. Mar. 15, 2002)).



